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Date: June 26, 2003

Docket No.: 1377-0189P

## MS PATENT APPLICATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a Request for filing a ☒ continuation ☐ divisional ☐ continuation-in-part application under 37 C.F.R. § 1.53(b) of pending prior Application No. 09/367,105 filed on November 10, 1999, the entire contents of which are hereby incorporated by reference,  
by

John Kevin Collins, Gerald Christopher O'Sullivan, Gerardine Mary Thornton, and Marian Mary Geraldine O'Sullivan

for

PROBIOTIC STRAINS FROM LATOBACILLUS SALIVARIUS AND ANTIMICROBIAL AGENTS OBTAINED THEREFROM

1. ☒ Enclosed is an application consisting of specification, claims, declaration and drawings/photographs (if applicable).
2. ☒ The filing fee has been calculated as follows:



|   | BASIC FEE       |                 | LARGE ENTITY  | SMALL ENTITY   |
|---|-----------------|-----------------|---------------|----------------|
|   | NUMBER<br>FILED | NUMBER<br>EXTRA | RATE FEE      | RATE FEE       |
| TOTAL CLAIMS  | 10-20 =         | 0               | x 18 = \$0.00 | x 9 = \$0.00   |
| INDEPENDENT CLAIMS  | 4-3 =           | 1               | x 84 = \$0.00 | x 42 = \$42.00 |
| <input checked="" type="checkbox"/> MULTIPLE DEPENDENT CLAIMS PRESENTED |                 |                 | + \$280.00    | + \$140.00     |
| TOTAL   |                 |                 | \$0.00        | \$557.00       |

3. ☒ No filing Fee is enclosed.
4. Amend the specification by inserting before the first line thereof the following:
- a. ☐ --This application is a ☐ continuation ☐ divisional ☐ continuation-in-part of co-pending Application No. 09/367,105, filed on November 10, 1999, the entire contents of which are hereby incorporated by reference and for which priority is claimed under 35 U.S.C. § 120; and this application claims priority of Application No. \_\_\_\_\_ filed in \_\_\_\_\_ on \_\_\_\_\_ under 35 U.S.C. § 119.--
- b. ☐ --This application is a continuation of co-pending Application No. 09/367,105, filed on November 10, 1999, and for which priority is claimed under 35 U.S.C. § 120. Application No. 09/367,105 is the national phase of PCT International Application No. PCT/IE98/00010 filed on February 11, 1998 under 35 U.S.C. § 371. The entire contents of each of the above-identified applications are hereby incorporated by reference. This application also claims priority of International Application No. PCT/IE97/00007 filed on February 11, 1997, under 35 U.S.C. § 119.--
5. ☒ Enclosed is/are ten (10) sheet(s) of formal drawings and/or photographs.

- 4 6a. ☒ A statement claiming small entity status was filed in prior Application No. 09/367,105 on November 10, 1999. See the attached copy of the statement claiming small entity status.
- 6b. ☒ The current application qualifies for small entity status.
7. ☒ The prior application is assigned to Enterprise Ireland and Univeristy College Cork - National University of Ireland, Cork.
8. ☐ A Preliminary Amendment is enclosed.
- 9a. ☐ Priority of Application No(s). \_\_\_\_\_ filed in \_\_\_\_\_ on \_\_\_\_\_ is/are claimed under 35 U.S.C. § 119. See attached copy of the Letter claiming priority filed in the prior application on \_\_\_\_\_.
- 9b. ☒ Priority of International Appln. PCT/IE98/00010 filed on February 11, 1998 under the Patent Cooperation Treaty and International Application No. Application No. PCT/IE97/00007 on February 11, 1997 under 35 U.S.C. § 120 and/or § 119 are hereby reclaimed.
10. ☒ An Information Disclosure Statement and PTO-1449 form(s) are attached hereto for the Examiner's consideration.
11. ☒ Address all future communications to:  
  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000  
  
or  
Customer No. 002292
12. ☐ An extension of time for \_\_\_\_\_ ( ) month(s) until \_\_\_\_\_ has been submitted in parent Application No. 09/367,105 in order to establish co-pendency with the present application.

13. ☒ Also enclosed herewith is the following:

- Sequence Listing
- Receipts from Deposit of Microorganism Under the Budapest Treaty (2)

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Gerard M. Murphy, Jr. (R 1049069)  
Gerard M. Murphy, Jr., #28,977

GMM/MAA/las  
1377-0189P

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Attachment(s)

(Rev. 04/30/03)